

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 71 OF 2006

MR. VIRAJ SURVARNA, BANGALORE.

....Appellant

Versus

TRAVEL CORPORATION(INDIA)
PVT.LTD., AND 6 ORS.,

....Respondents

Mr. Anthony D'Silva, Advocate for the Appellant.
Mr. Nitin Sardesai, Advocate for the Respondents.

Coram:- N. A. BRITTO, J.

Date:- 1st November, 2006

P.C.:-

Heard the learned Counsel on behalf of the appellant/defendant no.6 and the respondent no.1/plaintiff. One of the grievances of the appellant/defendant no.6 is that the impugned Order could not have been passed as against him without proper service. It has been submitted on behalf of the appellant/defendant no.6 that an application will be filed before the trial Court for the modification of the said Order as also bringing to the notice of the trial Court that the property along with the Hotel Resort where the rooms to be sold to respondent no.1/plaintiff were to be sold have in fact been sold by Sale Deed in favour of appellant/defendant no.6. The learned Counsel on behalf of the appellant/defendant no.6 makes such a statement that such an application will be filed within a period of three days. In case such an application is filed the learned trial Court is directed to dispose of the same as expeditiously as possible and in any event within a period of thirty days from the date of the receipt of this Order. Pending the disposal of the said application to be filed by the appellant/defendant no.6 the impugned Order to the extent it has granted temporary injunction in mandatory form and directed the defendants to hand over fifteen rooms to the respondent no.1/plaintiff is modified as hereunder:-

On behalf of the appellant/defendant no.6 certain photographs have been placed on record to show that the said fifteen rooms, the subject matter of the agreement dated 13-12-2005 are under renovation. It has been stated on behalf of the plaintiff/respondent no.1 that they have bookings for one room on 3rd instant for fourteen nights, for three rooms on 10th instant again for fourteen nights and for two rooms on 17th instant for fourteen nights. It is also stated that there are also bookings for 19th, 21st, 24th and 28th instant for some more rooms. On behalf of the appellant/defendant no.6, it is stated by their learned Counsel Mr. Anthony D'Silva that they will allot the required rooms, to be chosen by the respondent no.1/plaintiff to be allotted to their guests till the expiry of the booking of 28th instant. It is understood that this arrangement will not come in the way of the appellant/defendant no.6 in proceeding with the renovation of the rooms which would not be handed over to the plaintiff/respondent no.1. This arrangement is agreed by the parties without prejudice to their rights and contentions which they may urge before the trial Court. In the light of the above, nothing survives in this appeal and the same is hereby disposed of. The photographs be placed on record. This Order will not come in the way of the learned trial Court in passing appropriate orders as deemed fit on the application to be filed by the appellant/defendant no.6 for modification of the impugned Order. A copy of the rooming list, as available with the plaintiff/respondent no.1 has been furnished to the learned Counsel for the appellant/defendant no.6.

Expedited copy of the order be given to the learned Counsel for the appellant/defendant no.6.

N. A. BRITTO, J.

RD.